IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 5134 OF 2006.

Kumudini C. Mhatre ..Petitioner
V/s
Sudhagad Education Society & Ors...Respondents.

Mr. S.Shetty i/b M/s M.P.Vashi and Associates.

Mr. Y.D. Mulani AGP for respondnet Nos. 3 to 6.

CORAM : B.H. MARLAPALLE &
J.H. BHATIA, JJ.

DATE : 18TH DECEMBER, 2006.

P.C.

. Heard the learned Counsel for the petitioner, who is praying for directions against respondent Nos. 1 and 2 to treat her as a full time teacher and by to pay arrears in salary from 1994 onward.

2. The petitioner had come before us in the earlier round in Writ Petition No. 7350/2005 and the order dated 17/11/2005, the writ petition was disposed off by directing the petitioner to make a representation to the Deputy Director of Education, within a period of four

weeks and the said authority was directed to decide the same within a period of three months. Accordingly, the petitioner submitted her representation to the Deputy Director of Education, Mumbai Division and the same has been considered and decided by the impugned order dated 20/4/2006.

2. On enquiry, the findings recorded by the Deputy Director of Education in the impugned order are as under:-

> "(a) During the year from 1992-95 the petitioner possess the qualification of M.A. (Economics-pass class) plus B.Ed. and under the MEPS Rules, 1981, she was not eligible to be appointed as an Assistant Teacher in the Higher Secondary School, as she did not possess the M.A. degree in second class."
>
> (b) During the said period of 1992-95 there was a work load of only 8 clock hours for the standard XI and standard XII Arts. However, as she was not holding a requisite qualifications, the Deputy Director of Education Pune had rejected the proposal for approval of her appointment."
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> " (c) In the year 1995, the petitioner obtained degree of M.A, (Political Science) in second class and in the academic year 1995-96 there was 8 clock hours work load assigned to the petitioner. In spite of that position, the Management, on the representation made by the petitioner, appointed her as a full time teacher in political science and economics. Even this appointment was not approved by the Deputy Director of Education and in spite of this

> position, she was transferred by order dated 27/6/1990 from Paliwala Junior College, New Panvel to the Secondary and High Secondary School at Kalamboli with effect from 1/7/1998. The petitioner's appointment on clock hour basis and honorarium was paid at Rs. 20/- per hour."
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> "(d) In the year 2000 the petitioner obtained qualification of M.A. (History) in second class and the Management appointed her in the academic year 2001-02 to teach both the subjects i.e. political science and history and the total work load available was 11.20 clock hours. Her appointment was therefore, approved as a part time Shikshan sevak on a honorarium of Rs. 2000/- per month."

. Subsequently, in the academic year 2002-03, 2003-04, and 2004-05 her appointment has been approved as a part time teacher. The earlier two years appointment has been approved for the appointment of shikshan Sevak. She completed three years as a part time Shikshan Sevak in the academic year 2003-04 and therefore, in the academic year 2004-005 she was appointed as a part time teacher in the pay scale prescribed for the said appointment.

3. On the basis of these factual findings recorded by the Deputy Director of Education the petitioner's contention that she was required to be treated as a permanent full time teacher right from 1994 cannot be

accepted.

4. In case the petitioner is convinced that she was given full time assignment by the management though shown as a part time teacher, her remedy is to take appropriate proceedings against the management for recovery of salary and there is nothing before us as at present to hold that the fact finding in enquiry made by the Deputy Director of Education and after hearing the petitioner, is in any way erroneous so as to call for interference in this petition.

5. The petition is therefore, rejected summarily.

(J.H. BHATIA, J.) **(B.H. MARLAPALLE, J.)**